the resulting loss. *Held,* that he should not recover. *Clivier v. Majors* (1919, La.) 83 So. 23.

The Louisiana law provides that where the transfer of the debtor's property to a third person to defeat judgment creditors is simulated or fictitious, the creditor can immediately seize the property so conveyed without suing to annul the transfer. *Gaidry v. Lyons* (1877) 29 La. Ann. 4. But where there has been an *actual* transfer of the property, as in the instant case, the creditor must sue to annul it. *Johnson v. Kingsland and Ferguson Mfg. Co.* (1886) 38 La. Ann. 248. In most jurisdictions, in such case, the creditor has concurrent remedies in law and equity. See 20 *Cyc.* 655, note 79. He may bring a creditor's bill to have the transfer set aside. *Planters and Merchants' Bank v. Walker* (1845) 7 Ala. 926; *Sullickson v. Madsen* (1894) 87 Wis. 19, 57 N. W. 965. Or he may enforce a lien on the property or levy execution thereon as though title were still in the debtor. *Jackson v. Holbrook* (1887) 36 Minn. 494, 32 N. W. 852; *Smith v. Reid* (1892) 134 N. Y. 568, 31 N. E. 1082. He can thus obtain immediate benefit of the property. Where he has his choice of remedies and brings suit to set aside the conveyance, he should not be heard to complain that he suffered a loss through the decline in value of the property, because he elected to take the slower procedure. But in the present case the plaintiff had no such choice. His only remedy was to pursue the revocatory action, which forced him to delay till the suit was settled, and had to bear the resulting loss. In this respect, the law in Louisiana does not seem to give the creditor as adequate a remedy as that of the other jurisdictions.

DAMAGES—PERSONAL INJURIES—LOSS OF EARNING POWER—PROFITS FROM BUSINESS.—The plaintiff sued the defendant for personal injuries. The plaintiff was engaged in the tea and coffee business in which he employed three clerks and had a moderate wagon trade. Proof of a decrease of profits in the business was admitted to show the plaintiff's loss of earning capacity. *Held,* that such admission was error. *Dempsey v. the City of Scranton* (1919, Pa.) 107 Atl. 877.

The plaintiff's husband was a wagon builder and employed four or five workmen and a minor son, but had no capital invested in his business except in tools and material. A suit was brought for his wrongful death after he had been killed in a railroad accident. Evidence was admitted that the decedent had set aside $1,800 from profits each year for the support of his family. *Held,* that this was not error, since the decedent was engaged in a business predominatingly personal. *Baxter v. Philadelphia and Reading R. R.* (1919, Pa.) 107 Atl. 881.

The courts distinguish between businesses involving the investment of capital and those depending primarily upon the personal activity of the owner. *Cf. Mahoney v. Boston Elevated Railway Co.* (1915) 221 Mass. 116, 108 N. E. 1033, (1915) 25 YALE LAW JOURNAL, 83. In the former, profits derived from the business can not be shown as a measure of earning power. *Pryor v. Metropolitan Street Railway Co.* (1900) 85 Mo. App. 367. In this class of cases, proof of decrease in earnings is admissible, but the courts limit earnings to the money received for services performed. *Cf. Chicago, Rock Island and Pacific R. R. v. Stubbs* (1906) 17 Okla. 97, 87 Pac. 293. The first of the principal cases falls in this class and is in line with the general rule. The second of the principal cases represents a modification of this rule. Evidence of profits may be admitted where the element of personal earnings predominates in the business over the investment of an insignificant capital. *Kronold v. City of New York* (1906) 186 N. Y. 40, 78 N. E. 572 (business depending on orders for Swiss embroideries); *Fraser v. the City of Buffalo* (1908) 123 App. Div. 159, 108 N. Y. Supp. 127 (merchant tailor employed workmen by the piece to make clothes cut out

by him). The decision in each case depends upon the nature of the business and whether the predominating factor in the business is the directing or the physical and intellectual labor of the individual. In the following cases evidence of profits was excluded because of the amount of capital invested. *Weir v. Union Ry.* (1907) 188 N. Y. 416, 81 N. E. 1178 (small restaurant or lunch business); *Gombert v. New York Central & H. R. R.* (1909) 195 N. Y. 273, 88 N. E. 382 (building contractor employing at times both material and labor); *York v. City of Everton* (1906) 121 Mo. App. 640, 97 S. W. 604 (plaintiff engaged in millinery business). The second of the principal cases seems to take a liberal view of what constitutes a business predominatingly personal.

GIFTS—REVOCATION—BY FATHER AS NATURAL GUARDIAN.—A father opened separate bank accounts in the names of his four minor children and made deposits on the accounts during a period of several years. He communicated this fact to the children and showed the pass books to them. Two of the children testified that they occasionally had the pass books in their possession, but it did not appear that they ever exercised any control over them. The father drew out the money without the knowledge of the children and loaned it to the president of the bank, taking his individual notes, payable to the children, which notes were never paid. One of the children brought an action against the bank to recover the amount which had been deposited in his name. *Held,* that he should recover, the bank having paid the money to the father without authority. *McKinnon v. First National Bank of Pensacola* (1919, Fla.) 82 So. 748.

When one deposits money in the name of another with the intention to make a gift, it is not necessary for the completion of the gift that the depositor turn the pass book over to the donee. *Meriden Trust and Safe Deposit Co. v. Miller* (1914) 88 Conn. 157, 90 Atl. 228; *Blasdel v. Locke* (1872) 52 N. H. 238. Some act of acceptance by the donee is necessary, such as communication to and acquiescence by him. *Roughan v. Chenango Valley Spring Bank* (1913, Sup. Ct.) 158 App. Div. 786, 144 N. Y. Supp. 508; *Beaver v. Beaver* (1889) 117 N. Y. 421, 22 N. E. 940. These requirements were fulfilled in the principal case and were reënforced by the rule that a transaction between father and child will be construed as gift upon the slightest evidence. *Jones v. Jones* (1918, Mo. App.) 201 S. W. 557; *Love v. Francis* (1886) 63 Mich. 181, 29 N. W. 843. Once having made the gift, it was not within the power of the father to extinguish the bank's debt without the consent of the children. As natural guardian, the father has a right to the custody of his child. *Matter of Galleher* (1905) 2 Calif. App. 364, 84 Pac. 352; *Jain v. Priest* (1917) 30 Ida. 273, 164 Pac. 364. In fact, a contract by which the father releases to another the custody of his child is revocable at the parent's election. *In re Galleher, supra.* But this right to the custody of the child's person is the limit of natural guardianship. The relation confers no control over the child's property. *Vineyard v. Heard* (1914, Tex. Civ. App.) 167 S. W. 22; *Ringstad v. Hanson* (1911) 150 Iowa, 324, 130 N. W. 145. The decision in the principal case would seem amply justified inasmuch as the bank had full notice of the children's interest in the bank accounts.

INTERSTATE COMMERCE—GOVERNMENT CONTROL OF TELEGRAPH LINES—LIABILITY FOR UNREPEATED MESSAGES.—The defendant by contract with the sender limited its responsibility for missending an unrepeated message. An error was made in the transmission and this action was brought by the plaintiff, who sent the message, to recover damages under the state common law, which held such contracts to be void. *Held,* that he should not recover, because such contracts were beyond the control of the state. *Postal Telegraph-Cable Co. v. Warren-Godwin Lumber Co.* (1919) 40 Sup. Ct. 69.